

OGC HAS REVIEWED.

13 October 1947

MEMORANDUM FOR THE EXECUTIVE FOR I & S

Subject: Congressional Inquiries

1. We refer to your memorandum dated 30 September on Release of Information to Congress. Paragraph 4(f) of that memorandum suggests that classified material carry an appropriate precautionary notice to preclude further unauthorized dissemination. The two phrases suggested were:

(a) This document is furnished for use of the recipient only. Reproduction, quotation, or further dissemination is not authorized without specific authority of the Director of Central Intelligence.

(b) This document contains information affecting the national defense of the United States within the meaning of the Espionage Act, 50 USC 31 and 32, as amended. Its transmission or the revelation of its contents in any manner to an unauthorized person is prohibited by law.

The question has now arisen whether either of these warnings would have any effect in view of the Congressman's constitutional immunity from responsibility for his statements. A review of the law indicates that this immunity is absolute when the statements are made on the floor of the House or Senate and extends to publication of the Congressional Record or the published hearings of the Congressional Committee. Under such circumstances, any warning would merely put the legislator on notice with the nature of the information, but in no way binding. In such cases, disciplinary action could be taken only by his fellow Congressmen.

2. In the case of disclosures made by Congressmen outside of Congress, the immunity would not apply. Members of Congress are subject to prosecution in the same manner as other private citizens. Consequently, a warning would be of real weight in precluding unauthorized disclosures outside of Congress.

3. Under the circumstances, it is our feeling that the form set forth in (b) above is preferable and more effective.

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In any case, we have in our experience in the past found that such a statement printed or stamped noticeably on documents going outside the Agency was noticeably effective in the careful handling of information by the recipient.

LAWRENCE R. HOUSTON
General Counsel